

# **INFORMATION COLLECTION REQUEST (ICR)**

## **OMB-83 SUPPORTING STATEMENT**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **STRATOSPHERIC OZONE PROTECTION**

##### **SUPPORTING STATEMENT PART A**

#### 1. Identification of the Information Collection

- a) Title: Request for Applications for Critical Use Exemptions from the Phaseout of Methyl Bromide

OMB Number:

EPA Number: 2031.01

- b) Short Characterization:

With this Information Collection Request (ICR), EPA's Office of Air and Radiation and Office of Prevention, Pesticides and Toxic Substances are preparing to request applications for critical use exemptions from the phaseout of methyl bromide under the Clean Air Act (CAA). This ICR is one piece of the ongoing development of the application process. An upcoming notice in the Federal Register will invite applications requesting critical use exemptions.

Entities applying for these exemptions will be asked to submit to EPA applications with necessary data to evaluate the need for a critical use exemption. This information collection is conducted to meet U.S. obligations under Article 2H of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) and to implement section 604(d)(6) of the CAA, added by Section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law No. 105-277; October 21, 1998).

#### 2. Need For, and Use Of, the Collection

- a) Authority for the Collection

This information collection is authorized under Section 114 of the CAA, as relevant to section 604(d)(6), added by Section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law No. 105-277; October 21, 1998).

Because this action involves controlled use of a pesticide, Office of Prevention, Pesticides and

Toxic Substances is collaborating in the exemption application process. The regulation of pesticides is conducted under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended by the Food Quality Protection Act (FQPA).

b) Practical Utility/Users of the Data

The submitted applications will enable EPA to:

- 1) Maintain consistency with the international treaty, the *Montreal Protocol on Substances that Deplete the Ozone Layer* by supporting critical use nominations to the Montreal Protocol Parties, in accordance with paragraph 2 of Decision IX/6 of the Protocol;
- 2) Ensure that any critical use exemption complies with Section 604(d)(6), as added to the CAA in 1998; and
- 3) Provide EPA with necessary data to evaluate the technical and economic feasibility of methyl bromide alternatives in the circumstance of the specific use, as presented in an application for a critical use exemption.

3. Nonduplication, Consultation, and Other Collection Criteria

a) Nonduplication

All the information requested from respondents under this ICR is authorized by statute (CAA Section 114 and 604(d)(6)) and is not available from other sources because it is proprietary information.

b) Consultations

EPA has held consultations in regard to the procedure and requirements of critical and emergency use applications in the form of stakeholder meetings, held on February 16, 2001 and March 19, 2001. Users and producers of methyl bromide offered their feedback on how best to create and implement the application process while receiving clarifications from EPA to their questions and concerns. EPA remains open to receiving comments from stakeholders and has received recommendations and held meetings with individual stakeholders at their request.

c) Effects of Less Frequent Collection

The time line for critical use applications coincides with the nomination process established by the Montreal Protocol. Any deviation from that time line would result in a forfeiture from inclusion in the US nomination package and subsequent consideration by the Parties.

d) General Guidelines

This rule does not exceed any of the OMB guidelines.

e) Confidentiality

EPA informs respondents that they may assert claims of business confidentiality for any of the information they submit. Information claimed confidential will be treated in accordance with the procedures for handling information claimed as confidential under 40 CFR Part 2, Subpart b, and will be disclosed only if EPA determines that the information is not entitled to confidential treatment. If no claim of confidentiality is asserted when the information is received by EPA, it may be made available to the public without further notice to the respondents (40 CFR 2.203).

f) Sensitive Questions

This section is not applicable because this ICR does not involve matters of a sensitive nature (i.e., matters concerning sexual behavior or attitudes, religious beliefs, etc.).

4. The Respondents and the Information Requested

a) Respondents/SIC Codes

Respondents may include growers who use methyl bromide, applicators of methyl bromide, fumigators who use methyl bromide, companies associated with the storage of commodities that are fumigated with methyl bromide, and organizations/consortiums/ associations of methyl bromide users. The appropriate North American Industry Classification System (NAICS) and Standard Industrial Classification (SIC) codes for entities that may be involved in the application process are:

Category	NAICS code	SIC code
Agricultural production	1112 - Vegetable and Melon Farming	0171 - Berry Crops
		0172- Grapes
	1113 - Fruit and Nut Tree Farming	0173 - Tree Nuts
		0175- Deciduous Tree Fruits (except apple orchards and farms)
		0179- Fruit and Tree Nuts, NEC
	1114- Greenhouse, Nursery, and Floriculture Production	0181- Ornamental Floriculture and Nursery Products
	11142- Nursery and Floriculture Production	
	111421- Nursery and Tree Production	
	111422- Floriculture Production	
	1119- Other Crop Farming	0132- Tobacco
Milling Uses		0133-Sugarcane and Sugar Beets (sugar beet farms)
	115112- Soil Preparation, Planting, and Cultivating	0711- Soil Preparation Services
		0721- Crop Planting, Cultivating, and Protecting
		0723- Crop Preparation Service for Market, Except Cotton Ginning
	1132- Forest Nurseries and Gathering of Forest Products	0831- Forest Nurseries and Gathering of Forest Products
Warehousing and Storage Uses	115114- Postharvest Crop Activities (except Cotton Ginning)	2041- Flour and Other Grain Mill Products
	311211- Flour Milling	
	311212- Rice Milling	2044- Rice Milling
Consortiums, Associations	493110- General Warehousing and Storage	4221- Farm Product Warehousing and Storage
	493130- Farm Product Warehousing and Storage	4225- General Warehousing and Storage
	541710- Research and Development in the Physical, Engineering, and Life Sciences	8731, 8733- R&D in the physical, engineering, & life sciences
	8134- Civic and Social Organizations	8641- Civic, Social, and Fraternal Organizations (except condominium and homeowner associations)
	8139- Business, Professional, Labor, Political, and Similar Organizations	8611- Business Associations
		8699 - Membership Organizations, NEC (farm business organizations)
		8621- Professional Membership Organizations



b) Information Requested

i) Data Items

The Agency is currently considering options associated with this information collection, including the format of the application and the specific information that will be necessary to make meaningful determinations. The following information encompasses any information that will be requested from those entities seeking a critical use exemption:

- **Identity of contact person(s).** Unless otherwise specified, the person who submits the application will be considered the contact person for all matters relating to the critical use exemption. Requests must identify by name and telephone number one or more qualified experts who may be contacted in case any questions arise concerning the application.
- **Description of the proposed use.** The applications shall provide information on the proposed use (crop/pest combination), the amount of methyl bromide to be used, the location of use, the method of application and any other use information requested by the Administrator.
- **Description of past use.** The applications shall provide information on past use (crop/pest combination), acreage, the amount of methyl bromide used, the method of application and other historical use data requested by the Administrator.
- **Consideration of alternatives (Technical).** The applicant must demonstrate what steps have been, and will be, taken to find and implement alternatives. The applicant must also provide an explanation of and data relating to the technical feasibility of currently available alternatives for their proposed use and any other information required by the Administrator to determine whether technically feasible alternatives are available for the proposed use.
- **Consideration of alternatives (Economic).** To determine whether an applicant's proposed use has economically feasible alternatives, EPA will request information on historical revenue and other available economic measures.
- **Additional information.** Additional information required of applicants may include, but is not limited to, agricultural statistics.

5. The Information Collected - Agency Activities, Collection Methodology, and Information Management

a) Agency Activities

Applications for critical use exemptions will be submitted to U.S. EPA. While the specifics of the

review process are currently being developed, it is anticipated that the submitted applications will be received by the Office of Atmospheric Programs (OAP), Global Programs Division (GPD), Stratospheric Program Implementation Branch. OAP jointly with Office of Prevention, Pesticides and Toxic Substances (OPPTS), Office of Pesticide Programs (OPP), will review the applications to determine whether the requested critical use exemption is warranted. Specifically, the review will determine whether there is sufficient information to support the contention that “no technically or economically feasible alternative” exists for the specified methyl bromide use. Once the determinations are made for all applications, EPA, in consultation with the Secretary of Agriculture and the Department of State will compile a nomination package containing all uses to be nominated by the U.S. as “critical”. This package will be presented to the Parties to the Montreal Protocol.

In order to complete this project, EPA must:

- Collect and compile submitted applications
- Check for duplicate applications
- Review applications for completeness
- Inform applicants, if application is not complete
- Review complete applications for critical need for methyl bromide (data supporting no technically and economically feasible alternative)
- Compile applications into a U.S. nomination package for submission to Protocol Parties.

b) Collection Methodology and Management

When applications for methyl bromide critical uses are received by EPA, they will be filed and tracked in a central database as active submissions through the process, after which applications will become historical files.

c) Small Entity Flexibility

This information collection is authorized by statute. EPA believes the information collection is required to provide meaningful relief for those users of methyl bromide who do not have technically and economically feasible alternatives and to implement section 604 of the Clean Air Act Amendments (CAAA) of 1998. Applying for the exemption is voluntary; only those entities that believe the critical use exemption is warranted because they have no technically or economically feasible alternative will submit information. While the exemption itself relieves burden on affected entities, the burden on all affected entities associated with applying for the exemption, and especially the burden on small entities, has been reduced to every extent possible. To reduce the burden on small businesses, EPA encourages small businesses to participate in and/or form representative organizations that will serve to aid in gathering information and completion of applications. Furthermore, EPA considered burden on small businesses in the regulatory impact assessment of the phaseout schedule currently in place.

#### d) Collection Schedule

EPA plans to publish an application request in the Federal Register in early 2002. At this time, it is anticipated that entities will have 120 days from the date of publication of the Federal Register notice to submit an application. Once applications are submitted to the United States government, the following schedule is anticipated:

- Review of applications in 2002;
- Development of U.S. nomination package for critical uses to be submitted to the Montreal Protocol Parties in January 2003
- Parties review nomination and provide the U.S. government with a decision in late 2003;
- Informal notification of uses granted/disapproved by the Parties to the Montreal Protocol soon thereafter; and
- EPA formally grants approved allocations in 2004. (Approved critical uses are incorporated into EPA regulations).

Subsequent collection schedules depend upon the timetable to be established by the Montreal Protocol Parties. However, subsequent applications are expected to be substantially less burdensome. The majority of information submitted in subsequent years will be the same information submitted in the first year.

#### 6. Estimating the Burden and Cost of Collection

##### a) Estimating Respondent Burden

The basis of the analysis is the identification of the principal information needed to support U.S. nominations and using the burden associated with corresponding reviews under FIFRA as a general guide. The burden has been estimated by identifying the number of times the step will be undertaken and the number of hours required to complete each step. This information is based on yearly applications; however, applications in the first year are expected to be substantially more burdensome than subsequent years. Based on the essential use exemption for other ozone-depleting substances, EPA expects that more than 90 percent of the information submitted in subsequent years will be the same information submitted in the first year.

##### b) Estimating Respondent Cost

To determine the respondent cost, EPA must estimate the burden on the entities associated with gathering use-specific agricultural information and compiling applications for submission to EPA.

The average hourly wage rate of \$32.42 for professional specialty and technical staff was derived from the Bureau of Labor Statistics Employer Cost and Employee Compensation Table



2, *Civilian workers*, March 1999. In addition, an average hourly labor rate plus overhead, based on anecdotal information gleaned through the operation of the allowance tracking system during the 10 past years, is assigned a value of \$83.00. This value represents the cost of a contractor for assisting with compilation of methyl bromide user data for the application. In addition, EPA is considering an application fee in accordance with 31 U.S.C. §9701, the Independent Offices Appropriations Act (IOAA).

Burden hours needed to complete each application that is forwarded to EPA is estimated to be 48 to 79, with less than 4500 total applications expected. Maximum estimated values for each collection activity are represented in the following table. As explained in Section 6d below, respondent burden hours are estimated differently depending on utilization of methyl bromide user organizations. As a result, the total hours in the following table do not represent a simple product of total responses and hours per response.

TABLE I - RESPONDENT BURDEN HOURS PER YEAR

Collection Activity	No. of Respondents	Responses/ Respondent	Total Responses	Hours per Response	Total Hours <sup>1</sup>
Read CAA request for applications	495	1-95	4,500	4	17,100
Process, compile, and review the requested data for accuracy and appropriateness.	495	1-95	4,500	50	144,000
Generate application correspondence and follow-up summary report.	495	1-95	4,500	20	49,500
Store, file or maintain the information	495	1-95	4,500	4	17,550
Organize association	30	1-95	30	30	900
<b>TOTAL BURDEN HRS</b>		varies	4,500	108	229,050

---

<sup>1</sup> See section 6b and 6d for explanation.

## Estimating Agency Burden and Cost

c) The estimated cost to the Federal government of the critical use exemption process consists of two components. The first is the number of hours and costs incurred by the Agency to complete the review of each application. The second component is the costs for other elements of the process that are not strictly collection activities, but are required for the allocation of exemptions. The number of applications submitted in 2002 is estimated to be less than 4500, decreasing thereafter. The hourly wage rates for EPA clerical, technical, and managerial staff were derived from the GS Salary Schedule from the Office of Personnel Management website. EPA estimates an average hourly labor cost of Grade 14, Step 5 at \$36.80 for managerial staff, Grade 12 Step 5 at \$26.19 for technical staff, and Grade 9, Step 5 at \$18.06 for clerical staff based on 2001 figures. EPA then multiplied hourly rates by the standard government benefits multiplication factor of 1.6. The resulting rates that were used in estimating annual Agency burden and cost are \$58.88 for EPA managerial staff (i.e., 1.6 x \$36.80), \$41.90 for EPA technical staff (i.e., 1.6 x \$26.19), and \$28.90 for EPA clerical staff (i.e., 1.6 x \$18.06). The cost of contractor time and overhead is valued at \$75.00 per hour and a 6 percent contract fee is included. While the number of occurrences of each activity is shown per application, EPA intends to group similar applications such that applications encompassing similar circumstances will be reviewed together.

TABLE II - AGENCY BURDEN HOURS

Hours per Response				
	Managerial	Technical	Clerical	Agency Hours/ Year
Read and review the applications or reports for completeness	0	.5	0	2,250
Group applications	0	.2	0	900
Route the application to appropriate scientists and economists for review	0	.2	0	900
Review information submitted for scientific accuracy	0	2	0	9,000

Perform: - an economic analysis - make finding of “no technically or economically feasible alternatives” - forward a nomination on the proposed exemption to the Parties to the Protocol	.5	4	1	24,750
Final decision, prepare allocation of exemptions	.5	.2	0	3,150
Store, file, and maintain files	0	0	1	4,500
TOTAL	1	7.1	2	45,450

d) Estimating the Respondent Universe

Numbers of respondents were determined as follows. Data regarding the use of methyl bromide gathered by OPP and the National Center for Food and Agricultural Policy indicate that prior to the initial phasedown level, about 30 states used methyl bromide on one or more of the roughly 45 crops that use methyl bromide. Based on this data in addition to data from the 1997 Agricultural Census for the United States, EPA believes that, before the 25, 50 and 70 percent reductions in production allowances, there were about 4500 methyl bromide users. Because methyl bromide use data from years prior to the phasedown serves as the basis of the respondent universe estimate, the estimate represents the upper end of the possible number of respondents.

Users whose circumstances are similar will be encouraged to utilize grower and user organizations to aid in completion of the application, thereby reducing both small business and Agency burden. Based on attendance to our spring stakeholders meetings, users are likely to seek the assistance of their respective user organizations. However, EPA also anticipates that a small portion of growers will not utilize user organizations. EPA ran numerous scenarios; Table I represents the scenario estimating the maximum estimated percentage of applicants (ten percent) expected to apply without aid from a user organization.

Based on the essential use exemption for other ozone-depleting substances, the first year of applications is expected to be substantially more burdensome than subsequent years, as much of the information used in repeat applications will mirror previous applications. Further, because of the increasing number of alternatives to methyl bromide available for US crops, EPA believes that some uses will have technically or economically feasible alternatives, and thus, will not be designated by the Parties to the Protocol as critical. Such determinations made during Fiscal Year 2003 (the first year of application review by the Montreal Protocol’s Technical and Economic Assessment Panel) in combination with increased availability of, and experience with using, alternatives will, presumably, result in fewer applications in subsequent years.

e) Bottom Line Burden Hours and Cost Tables

The burden hours portion of the respondent reporting burden is estimated in Table I. The estimate includes the time needed to comply with EPA's reporting requirements, including any information gathering that needs to be completed for application submission. The total annual labor cost burden is estimated to be between \$1,234,692 to \$1,620,642, as presented in Table III.

Table III- Respondent Burden Hours and Costs

Number of Responses	Hours/ Response	Cost/ Hour	Total Cost
4500	48-79	\$34.42 \$83.00	\$12,649,599

ANNUAL BURDEN: 48-79 Total hours x 4500 applications = 229,050 Hours

ANNUAL COSTS: 130,950 Hours x \$34.42/ Hour + 98,100 Hours x \$83/Hour = \$12,649,599

Agency burden is reported in Table II. This includes technical review of the applications as well as policy work related to the creation of a nomination package to be presented to the Parties to the Montreal Protocol. Total costs are presented in Table IV.

Table IV- Agency Burden Hours and Costs

	Managerial \$58.88/ Hour	Technical: Contractor \$79.50/ Hour	Clerical \$28.90/ Hour	Agency Hours/ Year	Agency Costs/ Year
Hours/ Response	1	7.1	2	45,450	\$3,065,085

ANNUAL BURDEN: 10.1 Total hours x 4500 Applications = 45,450 Hours

1. ANNUAL COSTS:

(a) Managerial: 1 hours x \$58.88 x 4500 applications = \$264,960

(b) Technical (contractor): 7.1 hours x \$79.50 x 4500 applications = \$2,540,025

(c) Clerical: 2 hours x \$28.90 x 4500 applications = \$260,100

TOTAL: \$3,065,085

2. OTHER ANNUAL AGENCY COSTS:

(i) Emergency exemptions

In addition to the critical use exemption applications described above, EPA will also

accept applications for methyl bromide emergency use exemptions after the U.S. 2005 phaseout of methyl bromide production and import, as established in 40 CFR Part 82. These will be accepted in such instances where an emergency event creates an unforeseen need for 20 tonnes or less of methyl bromide and no other solution is available. The number and frequency of such instances are unknown and unpredictable. However, the burden hours and costs associated with filing emergency use exemptions for both the applicants and EPA is estimated to be the same as the critical use exemption burden hours and costs stated above. Assuming there are one quarter as many applications for emergency uses as for critical uses, the burden would be as follows:

Summary Bottom Line Burden Hours and Costs:

• Respondent annual burden hours	57,263
• Respondent annual burden costs	\$3,162,399
• Agency annual burden hours	25,875
• Agency's annual labor costs	\$766,271

(f) Reasons for Change in Burden

Not applicable

(g) Burden Statement

Table I presents the average annual respondent burden. For respondents affected by the methyl bromide critical use exemption, the reporting burden, which includes time for preparing and submitting applications, is estimated to be a maximum of 79 hours per respondent per year. This estimate was derived from relevant OPP experience with the FIFRA exemptions and consideration of the difference in requirements posed by the critical use process. The recordkeeping burden for the entities submitting applications, which includes time for gathering information and developing and maintaining records, is included in this estimate.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number and OMB control number in any correspondence.